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LABOUR: CHALLENGES OF GLOBALIZATION IN EUROPE

Bachelor's thesis

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I declare that I have compiled the paper independently
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ABSTRACT

The aim of the research is to find out how to positively impact labor law in the European Union in terms of worker protection. This is achieved by researching the nature of labor law and rights stemming from labor law. The research is carried out by gathering and analyzing field-specific material. The majority of the material used is about labor law in various countries, economic, social and cultural rights development, state of labor-related rights in the European Union and globalization.

The research shows that labor-related issues are of complex nature and are linked with many other spheres of governance, such as economy. Each country has its own rules to regulate this area. Even within the European Union the aspect of labor is covered superficially by the European Union rules. The state of labor law in the European Union and globally is fractured. The conclusion of the research states that there is no ideal solution for improving workers' rights across the European Union without sacrificing economic growth. There is no clear tendency which shows improvement in the field of labor in the region. The conclusion also offers options for diminishing significant differences in labor law inside the European Union.

The research question of the thesis is therefore: how is it possible to regulate labor law on EU level?

Hypothesis: it is possible to find a balance between the rapidly growing business sector and workers' rights within the EU.

Key words: Labor Law European Union Globalization

LIST OF ABBREVIATIONS

CFREU – Charter of Fundamental Rights of the European Union

CJEU – Court of Justice of the Europe Union

CP – Civil and Political

EC – European Commission

ECHR – European Convention on Human Rights

ECJ – European Court of Justice

ECtHR – European Court of Human Rights

ESC – Economic, Social and Cultural

EU - European Union

ILO – International Labor Organization

TEU – Treaty on European Union

TFEU – Treaty on the Functioning of the European Union

INTRODUCTION

Globalization brings about with itself new challenges. The world is constantly changing and whereas it does bring some positive factors, for example, new much-needed workforce for the developed countries and new opportunities for the citizens of developing countries, managing the needs of the incoming masses presents a difficulty.¹ Diversity brings new ideas if managed correctly, but can also become the source of problems for both the departing country and the country of destination of an immigrant.² Even though generally the process of immigration is not seamless and requires a certain level of worthiness to be proved before one can enter a country, with the development of civil rights and human rights less and less reasons are needed to start a new life elsewhere. With the most apparent reason for immigration being economic, there could also be other reasons, such as seeking asylum and reuniting with family members. None the less, a new career or perhaps a pay rise is what attracts most immigrants to wealthier countries, along with social benefits and overall social security which may not be available in their home country. In order to make use of the benefits in a new country the first thing that immigrants usually engage in is employment. The number of foreign employees in developed countries such as the USA or European Union (EU) member states has risen in recent years. Even after a significant progress in the field of civil and human rights has been made in recent decades, there are still issues and imbalance in eligibility for certain benefits, not to mention that every country has its own rules regarding employment and social security. Even inside the European Union there are major deviations in terms of factors such as salary, tax, social security e.g. pension and retirement age and over hours pay. In the Laval case³ it was established that even attempting to even out the employment field for foreign parties, even from other EU member states, is against EU law and is not allowed. If it is not yet possible to settle these differences in national legislation and customary practices (to which collective agreements in Sweden relate) inside what seems to be a profound and common internal market, the EU, it is most certainly impossible as of now to attempt to regulate this issue on a global scale. Therefore, it would make sense to attempt to harmonize labor

¹ Wickramasekara, P. (2008). Globalisation, International Labour Migration and the Rights of Migrant Workers. - *Third World Quarterly*, Vol. 29, No. 7, 1247-1264.

² Black, R., Engbersen, G. (2010). *A continent moving west?: EU enlargement and labour migration from Central and Eastern Europe*. Amsterdam: Amsterdam University Press.

³ Court decision, 18.12.2007, Laval un Partneri, C-341/05, EU:C:2007:809

law, wholly or partly, inside the EU, using the common instruments (e.g. secondary sources of law) for achieving this. The EU, especially countries of Western Europe, is amongst the leaders in the labor market in terms of employment conditions and is popular amongst immigrants for employment seeking purposes. Furthermore, the EU is a unique internal market with many harmonized areas of law. Labor law outside of certain standards for work conditions is unregulated. The minimal wage, or the absence thereof, sick leave conditions, pay for over hours and many other issues are country specific and can vary greatly. It is rather surprising that an environment, which sets to achieve the highest possible progress for technology, economy and human rights operates through creating and upholding certain standards in those areas, while the means to achieve those standards is, for the most part, up to the member state itself. Unequal employment conditions across the EU create grounds for immigration, albeit within the EU, leaving some member states without qualified workers due to competition from member states with a higher employer commitment. This leads to deficit of certain professions and encourages shift in business, dividing the market into wealthier, qualification-recognizing countries and outsourcing countries, with cheap labor, which is unacceptable and a step backwards in social development.⁴

There are different approaches to how labor law in the EU interacts with the internal market: they help each other evolve, but at the same time keep each other to a certain limitation.⁵ It was generally accepted that the centralized EU authority would control the internal market, whereas the member states themselves would regulate the labor. That way, by controlling only the internal market, the EU would eventually create an economic area where benefits of the market, such as competition across the EU, will balance the national labor inconsistencies in due time. This can be compared to the concept of social engineering, where regulations eventually affect the behavior of society in a desired way. However, just as various social engineering attempts in the previous century, the plan has still not worked out: employment protection has seen various stages of development, from what can sometimes be described as over-protective legislation, such as in France, to practically unchanged and, considering other member states' achievements, poor, such as the Baltic States and Bulgaria. The economy, especially in Eastern part of the EU, had not provided a sufficient and adequate stimulation of social protection, including labor law. In fact, weak labor laws favor the employer and stimulate businesses to seek labor in that part of the EU,

⁴ Sampson, H. (2013). Globalisation, Labour Market Transformation and Migrant Marginalisation: the Example of Transmigrant Seafarers in Germany. - *Journal of International Migration and Integration*, Vol. 14, No. 4, 751-765.

⁵ De Vos, M. (2013). Internal market and Euro crisis: labour law under the gun of the European Union? - *Academy of European Law*, 335-361.

coincidentally also contributing to local economy. The recent crisis has also uncovered many insecurities in national legislation. Combined with the fact that the EU is already more than an economic union, recognizing social norms' importance, it becomes apparent that labor could benefit from more regulation on EU level. In the global context of immigration of workers, the number of which exceeds 200 million globally by now, worker immigration within the EU is also a reality, taking its share of those immigrants.⁶

This topic was selected because it is a relevant issue in the globalization setting and it does not have a clear pattern of development. That is, it is impossible to predict at this stage whether there is going to be any sort of progress in the field of ESC rights enforcement, notably worker protection, in the short and long term. The methods of protection for the worker in some nations are obsolete and are due to be reformed to reflect the changes dictated by the growing economy and globalization. In terms of harmonizing labor law in the EU, there is not enough sufficient research which would take at least the majority of factors constituting advantages and disadvantages into account.

The paper aims to find if and how it would be possible to reinforce the workers' rights, especially in nations which have fallen behind in labor supervision. This research is carried out by studying literature from peer-reviewed sources, books and scientific articles, especially to get an overview of local tendencies including through court case development, and labor experts' from different backgrounds opinions on the future of labor law.

The main body of the thesis shall focus, firstly, on labor rights as fundamental rights, secondly, on international labor issues that can be attributed to the EU as well and priority of principles in court cases, thirdly, on whether an EU-wide minimum wage would be feasible in the light of labor law harmonization, next on the concept of trade unions and, finally, a plan will be derived based on findings during research, focusing on the research question and providing the opinion of the author on possible further action.

The research question of the thesis is: how is it possible to regulate labor law on EU level?

Hypothesis: it is possible to find a balance between the rapidly growing business sector and workers' rights within the EU.

⁶ Holgate, J. (2012). Temporary Migrant Workers and Labor Organization. – *Encyclopedia of Global Human Migration*, ed. 1, 2925-2932.

1. LABOUR-RELATED RIGHTS AS FUNDAMENTAL RIGHTS

It is common perception that fundamental human rights are those which fall under the definition of Civil and Political (CP) Rights. Since labor is an issue that cannot be attributed to CP issues, but rather to the co-called second generation rights, according to the tenets of the French Revolution, which are known as Economic, Social and Cultural (ESC) Rights, labor related rights are looked at as if they had a secondary role to play in human society. However, this is a belief which in the time of the Cold War was mainly held by the Western societies. It was generally accepted that CP rights are the most basic rights and they can be implemented in any society, no matter how developed, with relative ease and that it is the absolute minimum that any society can achieve in terms of human rights. In comparison with CP rights, ESC rights are more “complicated” and require advancements in various fields in a society in order to achieve complete respect for these rights. On the other side of the spectrum, the “Eastern European” or socialist notion of fundamental rights was the opposite: the society on the East believed that the basic human needs are related to economic activities, including labor. As such, the traditional “West vs. East” rivalry of, *inter alia*, values became more intensive. Since Western values are generally accepted as democratic values, nowadays the notion that CP rights and only those rights are what is perceived to be “fundamental”, the ultimate rights, the most important rights, still persists.⁷ In fact, in the past, ESC rights were despised by the Western capitalist society, linking them to socialist views, views that valued the worker over the enterprise, which was not accepted as something worthy of acknowledgement, often being contradictory to the philosophy which sustains capitalism. Capitalist views were reflected in the liberal economy model and are nowadays emerging once more, under the neo-liberal tag, up to a point where it is being attributed to a part of globalization – neo-liberal globalization, a philosophy of maximizing production output by minimizing investment, encouraging austerity and overlooking workers’ rights. However, it would be unfair to state that such approach was unanimously adopted by all of the Western nations. In fact, citizens of Ireland and Germany have been aware of the destructive implications of liberal economy as far as the workers’ right are concerned already since the early twentieth century. At the time of vigorous constitution-creation, there were some efforts to take ESC right into

⁷ Swepston, L. (2014). *The development of international law of articles 23 and 24 of the Universal Declaration of Human Rights: The Labor Right Articles*. Vol. 5. Leiden: Brill, 2-3.

consideration and even integrate them into the constitution, especially laws regarding land and yields.⁸ Therefore, the historic developments of Human Rights have been ongoing for longer than just recently in the current century, and ESC rights are not an exception.

None the less, with time passing by, more and more debates are arising about fundamental rights and what they are. This may eventually overturn the notion that there is only one generation of fundamental human rights, i.e. the first generation, the CP rights. The opinion that ESC rights will one day have as much value as the CP rights is becoming more popular. The line between CP and Socio-Economic rights is gradually blurring, with the latter no longer perceived to be a part of unnecessary and redundant philosophy.⁹

No matter what developments happen in the near future, the ESC rights remain secondary in the priority of human rights, with many still disregarding ESC rights as not human rights in the legal sense. Therefore, the fact that labor issues are often overlooked does not come as a surprise. Whether the idea to provide adequate labor and protection thereof is unreasonably burdensome, even for the most developed economies, remains a moot point. However, it can be argued that the instruments for creating and promoting fair labor environment are not sufficient for today's challenges. The International Labor Organization's (ILO) efforts to continue promoting workers' rights seems to be isolated in a rapidly-growing business world.

⁸ Murray, T. (2015). Socio-Economic Rights Versus Social Revolution? Constitution Making in Germany, Mexico and Ireland, 1917–1923. - *Socio-Economic Rights and the Making of the 1937 Irish Constitution*, Vol. 24, No. 4, 487-508.

⁹ Nsongurua, U., Besirevic, V. (2005). *Re-thinking Socio-Economic Rights in an Insecure World*. Budapest: Central European University Press.

2. PRIORITY OF PRINCIPLES

In order to understand how important labor is for EU institutions, it would prove useful to observe how matters related to labor and ESC rights in general are looked at by the CJEU in cases referred to it, to look at international developments in this regard and observe trends in domestic cases of leading democratic nations.

When it comes to resolving issues of any kind or giving advice to national courts, the Court of Justice of the European Union (CJEU) relies on principles. Whereas most of these principles are enshrined in EU's primary legislation, it is not uncommon for the CJEU to take to legislation outside of the EU, such as the European Convention on Human Rights (ECHR), although the convention duly now has a presence within EU law. Instances when the court consults and interprets what is written in the ECHR have increased in numbers in the recent decade. It came to a point when the European Convention even drafted the Charter of Fundamental Rights of the European Union (CFREU), which came into force once the Lisbon Treaty had been adopted and which contains principles of social, political and economic rights for citizens of the EU. Moreover, after the 2009 Lisbon Treaty, the Treaty on the Functioning of the European Union (TFEU), which was reformed, started including even more references to various international treaties. The Lisbon Treaty and the new elements that it brought to the TFEU sent a signal that the European Union was becoming much more than a mere economic organization uniting certain countries in Europe. Even though before the Lisbon Treaty and even before the drafting of the CFREU the CJEU did make reference to legislation outside the EU, for example, in matters related to Human Rights, it took a reasonable amount of time for the EU legislators to decide to include and then to *de facto* integrate Human Rights into EU's primary legislation. None the less, it did happen in the end and as of now, there are references to Human Rights legislation in EU's primary legislation, which CJEU uses to the full extent and practices full discretion when deciding cases which concern or may concern Human Rights. It not only takes into account the mere existence of Human Rights, but more often than not, Human Rights prevail over any other principles that may even be enshrined in EU's secondary legislation. The right to be with one's family may override any nationally-adopted measures for restricting entry into a country, the right not to be tortured and detained lawfully and with dignity will most likely prevail over any action or law which could

imply use of physical force against an arrested person, the right to privacy may preclude one's employer from demanding excessive work-related measures, such as unreasonable clothing and constant monitoring of employee's activity. The European Union has set forth a set of rules and precedents, according to which it (and the CJEU as its judiciary power representative) will interpret conflict of laws, as in between national and EU laws, and legislate, as in further legislation must be consistent with the principles, even to the extent that CJEU may overrule contradictory pieces of legislation. Therefore, some principles will take priority over other principles. In its practice, the CJEU often considers many points of opinion and several aspects of one issue, but just as any judge would, it chooses the most relevant argument and bases its ruling on that. That is not to say, that every case the CJEU faces has a straightforward and streamlined solution – often the court has to choose from several reasonable lines of arguments and logic. Some of those arguments have similar “weight” and value in a conflict, therefore in order to choose the most relevant one and as a result to deliver a fair judgement, it is required to set priorities as to which argument should prevail in a conflict of interests and arguments.

Human Rights have been established as the ultimate priority in court cases related to EU law, the top of the hierarchy amongst all other principles, concerning EU secondary legislation or national legislation. Human Rights can only be derogated when possible, i.e. if the Human Right in question is derogable at all and if the derogation comes as a measure strictly necessary in a democratic society. This is the conclusion of the European Court of Human Rights (ECtHR), and the one with which the EU's legislation seems to be in harmony with, judging by the numerous mentions in the Treaty on European Union (TEU) of Human Rights and the need to respect them. Article 11 of the European Convention on Human Rights (ECHR), which concern freedom of assembly and association, is a non-derogable right. This means that it can be sacrificed for the benefit of a democratic society. Being able to assemble and go on a strike and even being involved in collective bargaining constitutes the right to assemble.¹⁰ This fact is accepted by the CJEU in its judgement in the Laval case and The Rosella¹¹ case. However, in both cases this fundamental right has been set aside in favor of the freedom of service provision and freedom of establishment, set out in articles 56 and 49 TFEU respectively. These decisions were criticized by labor and human rights experts, including the International Labor Organization (ILO), inside and outside the EU for the court's incoherent line of reasoning and faulty logic. Whereas it may well have been the case of poor reasoning, it clearly is no coincidence that both of the cases were decided in a similar manner,

¹⁰ Demir and Baykara v. Turkey, no. 34503/97, § 25, ECHR 2008

¹¹ Court decision, 11.12.2007, International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti, C-438/05, EU:C:2007:772

i.e. against the collective action. This points to the idea that the CJEU had an agenda to produce decisions in favor of economic aspects of the EU law, rather than the social aspect. As pointed out before, the court obviously acknowledged the presence of the right to assemble which was relevant in the cases at issue, however it decided that to practice that right was unproportionate in relation to the economic freedoms that the EU offers. If the court agrees that it is dealing with an issue regarding human rights, it is sensible to assume that it will then consider when the human rights in question can be derogated and set aside. Whilst the right to assemble may be derogated, as it is not an absolute human right, it is, none the less, required to observe circumstances that would allow it to be derogated in a democratic society. It is obvious that a mere principle of proportionality in regards to economic freedoms does not justify derogation of human rights in a democratic society, which values principles of democracy, one of which is the freedom to assemble. The judgements allow to make a conclusion that human rights and matters related to the rights of workers specifically, were not always on the CJEU's list of priorities. Nor were they always in the priorities of EC, who also comes constantly under criticism from social actors for lacking legal certainty.¹²

Moving outside of the political confines of EU, it is noticeable that when it comes to Socio-Economic rights, the outcomes of cases which are related to them vary – some judiciaries acknowledge the importance of ECS rights, others dismiss it. However, the topic of ECS rights can be heard more and more often, it is safe to assume that the trend is there – even if these rights have not yet reached their potential of their services to society. The debate is key to eventually reaching a consensus.

However, rulings by the leading Human Rights institutions, including the ECtHR have been lacking a consistent approach.¹³ It appears that the court has no highlighted concept or course of action when it comes to ESC rights. It has been suggested that the court should adopt some sort of a “core” principle when judging cases overlapping with the topic of ESC rights. Moreover, some would even suggest that ESC rights coverage in court cases has been poor, with labor issues being on the top of concerned topics, especially in cases related to dismissal and job availability. With the latter, the situation is rather peculiar as organizations such as ILO vying to improve working conditions do not take into consideration the fact that with no work available there are no work-related issues. As such, the availability of employment is, once again, an issue of pure Socio-

¹² Barbier, J., Colomb, F. (2012). EU Law as Janus Bifrons: a Sociological Approach to „Social Europe“. – *European Integration Online Papers*, Vol. 16, 1-25.

¹³ Cernic, J. L. (2016). The European Court of Human Rights, Rule of Law and Socio-Economic Rights in Times of Crises. - *Hague Journal on the Rule of Law*, Vol. 8, No. 2, 227-247.

Economic importance. So are many other issues, especially in developed countries. In this regard, would it be correct to suggest that the developed world has outgrown ILO, seeing that the minimum provisions governed by ILO are, and have been for some time now, implemented in developed countries? The next logical step in furthering the political progress would be to, once again, pay more attention to ESC rights, in this case, the labor rights, something ILO is not ready to take control of, at least until the rest of the world is on the same progressive level as the developed countries. That is, when everyone around the world solves the problems of the developing countries, so they can focus on the so-called “first world problems”. The term in itself already shows the controversial nature of ESC rights.¹⁴ That is not to say that developed countries are eager to start addressing their respective “first world problems”. With the domination of neo-liberal economy, the governments adhering to this policy are, unsurprisingly, reluctant to go beyond what is necessary according to the rule of law to protect workers.¹⁵

On a national level, there also seems to be a period of turmoil regarding the Socio-Economic rights. In Germany, for example, in recent years the courts have become more open to interpreting such issues – something previously unheard of in this strict positivistic nation.¹⁶ Previously, the German courts duly practiced a conservative approach, not willing to embrace the notion of importance of ESC rights. The manner of recent rulings suggests a shift in their approach, with the new course being more liberal in its interpretation of Socio-Economic rights.

The hierarchy of principles when making a decision in a court case largely depends on the political and economic philosophy that a country follows. With growing domination of neo-liberal model in the society, the importance of ESC rights diminishes.¹⁷ Especially in the context of globalization, an anti-hegemonic movement is necessary to combat this trend and to draw more attention to ESC issues. Otherwise, the society will be hit by a period of political stagnation marked by lack of progress in the civil field.

¹⁴ Koch, I. E. (2009). *Human Rights as Indivisible Rights: The Protection of Socio-Economic Demands under the European Convention on Human Rights*. Vol. 101. Leiden: Brill.

¹⁵ Cernic (2016), *supra nota* 12, p 227-247.

¹⁶ Mahler, C. (2013). Interpreting the Right to a Dignified Minimum Existence: A New Era in German Socio-Economic Rights Jurisprudence? - *Human Rights Law Review*, Vol. 13, No. 2, 388-401.

¹⁷ O’Connell, P. (2011). The Death of Socio-Economic Rights. - *Modern Law Review*, Vol. 74, No. 4, 532-554.

3. EUROPEAN UNION-WIDE MINIMUM WAGE

One of the possibilities and results of harmonizing labor law within EU could be the introduction of a minimal wage regulation which would be applicable to all countries within the EU. The idea of a minimal wage across the EU has been looked at by the European Commission and certain plots were introduced in order to realize this endeavor in recent years. Notably, the left side of the political spectrum inside the EU's most influential institutions were in favor of pushing this agenda, as opposed to the more conservative parties, who strongly refused to allow a union-wide minimum wage. Ultimately, the agenda is yet to be realized, with negotiations postponed and the enthusiasm revolving around it seemingly diminishing.

The situation regarding remuneration across the member states of the EU varies greatly. Most of the countries do have a minimum wage regulation in place, i.e. the so-called wage floor – the amount of remuneration that a person receives that cannot be lower than a certain standard, set at a monthly rate or an hourly rate by the national government. However, not every country has a statutory minimum wage (e.g. Cyprus), opting to rely on a long-lasting tradition of collective bargaining (e.g. Sweden) and having a mechanism to allow workers to negotiate a certain level of salary, such as through a workers' union, also known as trade union. What is important to understand, is that regardless of how the wages are negotiated, there are significant differences in wages received by workers across the EU.¹⁸ While one of the major objectives of the EU as whole is to encourage wealth and prosperity, as it is stated in the TEU, the difference of prosperity across the EU could be perceived as unacceptable. The difference in purchasing power, wealth distribution and living on the verge of poverty – everything that can be attributed to prosperity is directly or indirectly linked with the level of salaries, which is significantly higher in some countries of the EU than in others, even for the same or similar work. Therefore, the immediate and arguably the simplest solution to the uneven wealth distribution within the EU would be to introduce a union-wide minimum wage. If labor law within the EU is to be harmonized, one of the major factors in harmonization could be a floor of wages that a national government would not be

¹⁸ EUROSTAT. (2018). Minimum wages, July 2008 and July 2018. Minimum wage statistics (database) [Online] [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Minimum_wages,_July_2008_and_July_2018_\(EUR_per_month_and_%25\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Minimum_wages,_July_2008_and_July_2018_(EUR_per_month_and_%25).png) (2 January 2019).

able to lower, therefore benefitting many workers in countries with low-cost labor, such as Romania, Bulgaria and the Baltic States. In fact, cheap labor in Eastern Europe attracts undertakings and businesses from Western Europe, because the labor environment on the East is more favorable, even if because of less strict legislation, and the lower wages contribute significantly to the choices of businesses. This issue can also be perceived as an ethical problem in addition to the detrimental effect to the wealth distribution across the EU – after all, it is not logical to strive to create a single market with an even playing field for everybody, without prejudice to nationality, when in reality the conditions varied considerably – and they still do. It is fair to assume that in the beginning stages of the European Community (EC) it was obvious that consumers in different countries had different purchasing power – some are wealthier than the others. In addition to that, the objectives of the EC were not to distribute wealth evenly or to increase purchasing power where it could be beneficial for it to increase. However, since the times of the EC and the beginning of the EU era, little regards have been given to the issues of wage growth, particularly in member states that joined the EU in the last two decades. Even though in general the economy of those member states has grown as a result of the various benefits that the EU brought with it, the growth is simply not high enough. This argument can be reinforced by the fact that many workers in poorer member states choose to take advantage of the free movement of workers which the EU offers in order to pursue a higher standard of living elsewhere in the Union. It may be argued that the EU had perhaps made a mistake in allowing such undeveloped economies to join the single market. Economic standards could have been made stricter in order to encourage the candidate states to stimulate their economy before joining the EU, so as to prevent them from over-relying on EU subsidies (which was the case with Greek economic crisis, for example). Nevertheless, these economies are in the single market now and the progress made by them in order to increase purchasing power through increase of wages has not been sufficient for achieving the goal of union-wide prosperity. Therefore, if an EU-wide minimum wage was to be introduced, it would at the very least solve the issue of poverty within the EU. If the potential of this union-wide reform is realized to the fullest, it will cause the purchasing power, especially in poorer member states, to increase to an adequate level, potentially solving other issues, such as unemployment and lack of professionals in a specific field due to more favorable conditions elsewhere. Moreover, it could potentially decrease workers' reliance on the government-issued aid, such as financial and other support for the unemployed, due to the local labor market becoming more attractive.

After discussing the benefits of the union-wide minimum wage, it would be of benefit to look into potential obstacles for introducing such measure.

While a unified minimum wage would increase income for low-income workers, it may not guarantee an adequate level of life. Depending on the country, the new minimum wage might still not be sufficient enough for the income to reach the amount, which would be sufficient to guarantee a certain standard of life. A good example would be the “living wage” in the United Kingdom (UK). This specifies the amount required to be able to purchase certain things that guarantee a certain standard of living, i.e. to be able to afford a basket of certain goods.¹⁹ The minimum wage and the living wage are two different entities, with the former being a statutory obligation and the latter being a recommendation by relevant social agencies. The contradicting factor is obvious, as it is easy to notice how the wage that in theory should guarantee citizens an adequate means for living is well above the government-set figure and it has been this way ever since the introduction of the two factors. In fact, the statutory minimum wage is widely considered to be inadequate for living in the UK’s capital city, London, which is renowned for being expensive. Therefore, when the union-wide minimum wage is negotiated, it is imperative to keep that in mind, because all the effort into setting the minimum wage could become in vain and redundant. It is important to consider factors such as purchasing power, inflation (especially if national currencies are considered) and the market situation in countries where the union-wide minimum wage would be most beneficial. Ideally, the minimum wage introduced should improve the purchasing power in every member state, in which the statutory minimum wage or an equivalent of it was below the newly introduced one. However, with due diligence from the European Commission (EC), it would be possible to calculate an adequate figure relatively easily.

Another factor against a union-wide minimum wage is the alleged chaos it would bring with it into the labor market in terms of labor costs. For example, the most popular model economy when talking about all things economy, including the minimum wage, is Germany, because of its success and stronger resistance to crises, and also because Germany has arguably the most powerful middle class. Therefore, if German minimum wage is taken as the rate for the union-wide minimum wage and is implemented in a country where the current minimum wage is several times lower than it, it could – and it will – understandably, cause the labor market to stir or even collapse. While it is not contested that setting the wage floor too high is detrimental for the single market and for the national economy, the flaw in this argument lies in the notion that the wage to be set must reflect the average minimum wage in powerhouse economies, such as Germany. It is simply not true and there are little reasons to believe it is. Even though, there might be virtue in attempting to increase

¹⁹ Timms, M. (2015). *A pan-European minimum wage could cause maximum chaos*. Accessible: <https://www.europeanceo.com/finance/a-pan-european-minimum-wage-could-cause-maximum-chaos/>, 2 January 2019.

salaries to a level where they would be equal across the EU, this idea is too farfetched and overambitious. As stated earlier, there are clear and significant differences in wages in various member states of the EU, and while countries with higher average income tend to withstand the modern challenges of economy better, others, specifically those in Eastern Europe, indicate a clear problem zone. Therefore, it can be derived from this logic, that effort must be made to solve the low wage issues in that geographical area (without prejudice to other member states, and candidate states willing to, at some point, join the EU). Since there is a clear problem zone, the solution is also easier to devise for that specific area. As such, the solution would be to set a union-wide minimum wage which would increase reasonably the purchasing power of poorer countries. Therefore, if the wage in question would be, for example, €5 per hour, it would reasonably increase the purchasing power and prosperity in those countries while avoiding changes in richer countries. If there is a hypothetical country A, in which the statutory minimum wage is €8 per hour, and a country B, whose citizens receive €3 per hour as their minimum remuneration, introducing a minimum wage regulation, which both of these countries would be liable to follow, and which states that the minimum wage must be not lower than €6 per hour, it will increase reasonably the minimum wage in country B, while bypassing country A completely, because it already has a minimum wage in place which is higher than the required minimum. Using this logic, practically nothing will change in countries which, factually, already follow the new regulation. Therefore, the hypothetically proposed minimum wage of €5 per hour would not have any implications on German labor market, since the minimum wage in Germany was set at €8.84 in 2017. At the same time, it would reasonably raise the wages in Estonia, where the minimum wage in 2017 was €2.97. On the other hand, there is no reason to believe that a minimum wage set at the EU level, which is lower than any national minimum wage, would suddenly drive local policy makers to drop wage rates to the minimum allowed or to lower them at all, especially in countries with influential collective bargaining. A parallel can be drawn with the situation in, coincidentally, other aspects of labor law, such as safety regulations. There are certain regulations set by the ILO, implemented by the EU, regarding minimum safety regulations. There must be safety measures taken at any given work place to stipulate the minimum level of protection for the worker (for example, air and noise pollution not exceeding a specified amount, temperatures being adequate for work performance, availability of safety equipment, working fire extinguisher proximity etc.). However, the available “minimum” guidelines, do not preclude the member states bound to follow them from conferring a higher level of protection on the worker. In fact, the most progressive countries often act as an example for future regulation to be implemented inside the EU, and eventually in the civilized world. After all, that logic caused the humankind to eventually rid itself of slavery.

Another obstacle worth considering is the difference in taxation across the EU. Since taxation is another branch of law which is only lightly touched by the EU (mostly rules regarding free movement of capital and cross-border business income taxation), it is at the member states' discretion to regulate this area as they see fit. Particularly, this is concerning income tax. Income tax can be comparatively low or high, it can be a fixed tax or a progressive tax, it can have various thresholds, it can concern selective individuals and it can have a different scope of application in every EU member state – there are many factors to consider when taxes are in question. Since member states are free to choose how they collect taxes within their territory, there would be no obstacles to preclude them from adjusting their tax policies in response to the union-wide minimum wage. Member states have the ability to effectively counter this reform by increasing income tax in order to even out the losses in the budget as a result of it and reintroducing the funds into the national budget, which would be specifically relevant to workers who receive their salaries from the government. Whereas it is hard to conceive any government raising taxes only for the minimum wage workers, albeit not impossible, the most likely scenario is that all income taxes in the national taxation system would rise. This measure, although not impossible, does not make sense from the practical point of view, since the intended loss recovery would be aimed at a very specific niche – workers, who receive their salaries from the government and who receive minimum wage - however it would affect other job positions as well. Alternatively, the government might decide to recover the losses associated with the new minimum wage indirectly – by, once again, raising income taxes and distributing them as subsidies for businesses if the business market in the country gets heavily affected by the introduction of the reform. It is also important to understand that raising the minimum wage would almost inevitably imply the eventual raise for most of salaries, at least in the low to middle income brackets. There could be a number of other scenarios happening should the income reform materialize, however, it would be appropriate to discuss them in an economic context. In a legal context, the bottom line is that the reform may trigger a number of legislative reactions in member states and taxes could be one of them. In addition, even though the EU cannot affect matters related to taxes heavily, it does have an obligation to oversee that national taxes comply with certain policies, *inter alia*, promotion of economic growth and job creation.

The next potential obstacle is the social security policies. Here, again, it is apparent that EU member states have discretion in how they tackle social security. This means that member states would be able to react to the minimum wage reform if they so choose. Most likely, if the wages rise, the social security strength will weaken in order to compensate for the unexpected growth of

salaries. This may well not be true, since the general tendency points to the fact that social security benefits (e.g. pensions, maternity leave, support for the disabled etc.) grow in value alongside salaries. It is difficult to predict, however, how this tendency changes if the salary growth is higher than usually expected.

Some other points to consider: collective bargaining impact, guidelines for setting the exact amount of the union-wide minimum wage, changes in investor attractiveness.

In conclusion, it is apparent that through the prism of pan-European minimum wage concept we can look at other aspect of labor law harmonization, such as dismissal fees and maternity assistance money, and come to the same summary – any sort of change in this field will likely trigger an economic reaction and could end up being more harmful than beneficial. Since the very basic concept of labor safety and security across Europe, including equal treatment of workers in the same organization, should be sufficient to achieve the aim of excluding or at the very least minimizing the risk of accidents and arbitrary behavior on the part of the employer, something which was customary in the past, the only course of action that would need to be taken in this day and age in order to make substantive progress in this field is to focus on the Socio-Economic aspect of labor. Pan-European minimal wage would be one of the signs of such progress, as it may have first seemed, but the implications of any such attempts would likely to have a detrimental effect on domestic economies. There are simply too many domestic economic differences across the EU to make any sort of harmonization on the Socio-Economic level viable.²⁰ In fact, there are so many differentials in this question, that the obligation to pay the same salary, or allow the same number of holidays to a specific worker niche, would cause more harm than benefit.

Moreover, it is safe to say that lower pay is not always the sole reason for poverty or lower purchasing power. Even though the theme of salary was extensively discussed throughout this chapter, a sometimes marginally higher salary rate is unlikely to fix what appears to be a failure in the economy in a country. Two countries of similar economic progress can be very different in purchasing power if the tax system is different, for example. And speaking of taxes, it is not only the income tax or any similar tax which is imposed on a worker's income that is holding down the purchasing power and therefore, the quality of life as well. The government may choose to impose higher taxes on enterprises and they, in turn will increase the rate for their services, effectively making the customers pay for the difference. Taxes may come in many forms, they can be targeted

²⁰ Fernandez-Macias, E., Vacas-Soriano, C. (2016). A Coordinated European Union Minimum Wage Policy? – *European Journal of Industrial Relations*, Vol. 22, No. 2, 97-113.

at specific groups of products, e.g. excise, at specific people or enterprises and their impact can have a harmful effect on local economy and even beyond the borders. The recent steps by Estonian government to raise excise and therefore causing alcohol prices to propel in local outlets had caused the local citizens to look elsewhere for the specific product. This resulted in millions of euros of losses, which the state will be missing from its treasury, prompting neighboring Latvia to carefully choose their own excise policy, as a substantial part of the budget is at risk.²¹ As can be seen from the tax example alone, an EU-wide minimal wage would certainly not be a panacea to some countries' economic shortcomings, which result in worse labor conditions than in some other countries. Many more factors play an important role in shaping a country's economy and, in turn, the quality of life of its citizens, than just wages. The same could be said about other resource-demanding derivatives of employment: holidays, paternity leave, pensions, fixed working hours, unemployment assistance etc. – all these factors in isolation cannot guarantee a reasonable boost to the quality of life. Carefully analyzed and selected public policies aimed at improving the wellbeing of the economy and its actors, including the workers, are imperative to creating a healthy climate for the workforce. As of now, the EU can make recommendations and set certain standards, but it cannot force its member states to adopt such policies.²² Laws and policies tend to have a lesser meaning to the society, when the society and the laws are both fungible. A strong tradition is a reasonable foundation for a non-fungible society. This occurrence explains to a degree why Scandinavia has been so successful with their bargaining power of trade unions.

²¹ *Läti alkootõjad mures: aktsiisitõusuga kaotaksime eestlaste miljonid*. Postimees. Accessible: <https://majandus24.postimees.ee/6460774/lati-alkootõjad-mures-aktsiisitõusuga-kaotaksime-eestlaste-miljonid> , 2 January 2019.

²² Conaghan, J., Fischl, R. M., Klare, K. (2002). *Labour Law in an Era of Globalization: Transformative Practices and Possibilities*. New York: Oxford University Press, 279-299.

4. TRADE UNIONS

The role of trade unions in the history of development of labor law is great. Their power varies considerably from country to country, depending on the historic context. In some countries, predominantly Scandinavian ones, trade unions hold significant power.

Some countries try to avoid trade union activity, generally in order to appease the business sector.²³ However, if a trade union is strong and well-established, it is hard to undermine its power, unless the protected workers themselves decide that the unions are not effective anymore, which was a case not that long ago in Germany, who opted for statutory minimal wage instead of ineffective collective bargaining.²⁴ However, the benefits of well-established trade unions are significant for the workers both in terms of basic rights such as safe working conditions and remuneration and bonuses. It is hard to overlook their importance and role in collective bargaining in countries where it is customary. It is safe to assume that such countries, like Sweden and Denmark, have maximized the positive influence of trade unions for their workers, whereas in other countries trade unions hold close to no power at all, like the Baltic States. These countries rely on statutory protection of their rights instead as a general rule. In countries like Italy, collective bargaining works to an extent, but not as strongly as in Scandinavia. Therefore, as we can see, there are various roles that a trade union can play in a society. They can be an intermediary between the worker and the employer, a mandatory addition to the workers employment endeavors, or their role can be reduced to overseeing that a specific rule is not violated in a specific industry – and anything in between. Various research shows that union activity is almost always beneficial for the worker.

Globalization has brought in new people in search for work all over the world. Traditionally, immigrant workers are treated worse than local workers and emerging sense of human integrity has called upon better protection of these workers, for in the context of a true globalist approach it does not matter where the worker is from – everyone is entitled to protection and dignity. As such, trade unions expanded their scope to immigrant workers as well, albeit through lobbying and

²³ Arnold, D., Han Shih, T. (2010). A Fair Model of Globalisation? Labour and Global Production in Cambodia. - *Journal of Contemporary Asia*, Vol. 40, No. 3, 401-424.

²⁴ Pulignano, V., Doerflinger, N. (2013). A Head With Two Tales: Trade Unions' Influence on Temporary Agency Work in Belgian and German Workplaces. – *The International Journal of Human Resource Management*, Vol. 24, No. 22, 4149-4165.

the parliament like in the UK, for example. Soon, groups that would solely protect the rights of immigrant would follow. Eventually, the trade unions, besides the working conditions and remuneration, started to encourage more cultural diversity and equal treatment.²⁵

Naturally, the neo-liberal model of economy is resistant to formation of trade unions. The recent story regarding Amazon's anti-union agenda in the USA highlights this fact. Even though it was not yet proven to be true, there are certainly elements to that story that cannot be disregarded as a ruse. Workers were allegedly led to believe that trade unions are harmful for the economy, which means that it is harmful to them as well, as they are a part of the economy and the economy is what ultimately generates their salary. Unionizing is an endeavor that the American retails giants clearly see as a threat to business opportunities, and not solely in this case. The fact that trade unions are often associated with socialism further diminishes the attractiveness of trade union culture in countries where political elites are not keen on socialism. Trade unions can also be a new and foreign concept for the majority of countries even those within the EU. The EU itself has attempted to understand the concept of trade unions in Scandinavia, with EU's attempts at imposing guidelines upon field-specific trade unions causing friction between the EU's governing bodies and Scandinavian countries.²⁶

However, even in unhealthy and hostile environments, a country with weak trade union traditions, notably one of those in Eastern Europe, can succeed to a degree in lobbying interests of a group of workers.²⁷ Poland's example shows that national workers can push the agenda of trade unions and cooperate with other trade unions in other countries to create an improved environment for a sector of labor in issues such as health hazards from polluting industries. The most important aspect of this occurrence is that workers recognize their ability to make a change and this is reassuring for the trade union culture as long as these occurrences become a regularity in Europe. At this stage, unfortunately, instances when workers become successful in taking their rights to the next level of protection are scarce and sporadic for a trend to commence. The dominance of neo-liberal economy model undoubtedly plays the key role in preventing trade union from flourishing in Western democratic countries by imposing labor structures which do not take trade unions into account. Although that is a major threat to trade unions, this neo-liberal agenda can deprive trade

²⁵ Harcourt, M., Lam, H., Harcourt, S., Flynn, M. (2008). Discrimination in Hiring Against Immigrants and Ethnic Minorities: The Effect of Unionization. – *The International Journal of Human Resource Management*, Vol. 19, No. 1, 98-115.

²⁶ Kristiansen, J. (2015). *Europe and Nordic Collective-Bargaining Model: The Complex Interaction Between Nordic and European Labour Law*. Copenhagen: Nordisk Ministerråd.

²⁷ Bernaciak, M., Lis, A. (2017). Weak Labour, Strong Interests: Polish Trade Unions and The Integration of EU Energy and Service Markets. – *Journal of Common Market Studies*, Vol. 55, No. 3, 432-448.

unions of their most valuable asset yet: the people themselves, the lifeblood of unionization, and not just the environment. By imposing anti-union propaganda, like in the USA, the state deprives the society of having a choice on how to be governed, because if workers themselves are not only not in favor of, on the contrary – against trade unions, unionization is impossible. Situations like that may challenge not only the workers' rights, but the principle of democracy as well.

5. POSSIBLE SOLUTIONS FOR ALLEVIATING LABOR ISSUES IN EUROPE

Labor is an issue which is tightly interwoven with many subjects like ESC rights, national traditions, domestic economy and regional consensus regarding labor issues.²⁸ As such, labor law *per se* is not an issue which can be solved with a single solution, but rather a plethora of changes would be required to bring fair working conditions to all workers in Europe, especially in countries with problematic labor legislation. With the last subject, the likes of EU play a key role in regional development and thus, it would be sensible to rely upon the EU to set an example and become a catalyst in labor rights development. As the name of the chapter suggests, this work does not intend to provide a panacea for labor issues, nor did it imply that such universal solution exists. Some ways to make developing countries catch up with developed ones, who possess advanced labor legislation and solutions in Europe and the EU specifically, will be looked into in the following paragraphs.

One of the ways to increase the quality of labor protection in any given country is through trade unions. Trade unions are a natural solution which stems from creating a balance between responsibility and entitlement, between the state and the citizen, between the employer and the employee. It is a truly democratic mechanism for ensuring fairness, which excludes arbitrary reign of business. Countries which have weak or no union institutions should create an environment where workers can create a workers' union and practice their right to assemble. Furthermore, any democratic country should encourage its workers to practice their rights in unions. This way not only will the workers get more protection, it also takes a significant burden off of the shoulders of the legislators, who would otherwise need to account for the well-being of different labor groups. In fact, countries like Sweden do not have a minimum wage regulation because they have the union institution, which substitutes the need for it and makes a significant part of labor legislation redundant. By allowing the workers to be represented by a strong union, the state creates a dialogue between the labor force, the business and itself. The outcome of such dialogue would result in a deal, where none of the parties have a clear advantage over the other. It creates a situation similar

²⁸ Deacon, B., De Lombaerde, P., Macovei, M. C., Schroder, S. (2011). Globalisation and the Emerging Regional Governance of Labour Rights. – *International Journal of Manpower*, Vol. 32, No. 2, 334-365.

to a courtroom proceeding in a criminal case, where one side of the equilibrium, the prosecutor, faces the other side, the attorney, and where every detail is taken into account by the judge to produce a fair verdict. Both sides have to be qualified and heard in order to uncover the truth, whereas the developing world largely exploits its work force for the disproportionate benefit of the business. Moreover, there seems to be little indication that trade unions can have a negative effect on the labor system and there is little evidence that trade unions could damage workers' opportunities or hamper their rights in any way – quite the opposite. In other words, the trade union institution is a major step forward when it comes to workers' rights. The problem with implementing this institution lies in economies in transition and economies which rely to a large extent on foreign investments. A sudden change of course in labor legislation could cause an economy to become less attractive to investors and foreign businesses. It would require a country to have a substantial financial backing before moving to a more socialistic approach to labor. If we take the EU in the scope, there is no reason why EU with all its development incentive programs could not assist member states willing to implement the trade union institution in sustaining their economy while in transitional period. That is, if upholding the ESC rights is truly within the interest of the EU. In addition, the EU could adopt a directive for creating a trade union body in all its member states with minimum obligation to protect the workers. It could be a basic institution which would deal with workers' complaints and review workers' salary annually, for example, or it could be a more intricate mechanism which could fight for the rights of part-time and temporary workers as well. Obviously, adopting a trade union mechanism would not cause any country to become as successful and labor-savvy as countries in the Scandinavia region in short, or even in the long term for that matter, however trade unions would add a substantial boost in workers' rights in every country which does not have an effective trade union mechanism yet, a change which is coveted by many workers.

Another solution for the EU could be to start looking to the richer and more successful member states for their legislation and start developing a base for labor law harmonization across the EU in order to raise ESC aspects of labor in member states who have fallen behind in this matter. This would be especially helpful for alleviating the consequences of labor immigration across Europe. The concept is simple: the higher the domestic standards, the less of the working population will set off to try their luck elsewhere. Any sort of harmonization should be in the form of EU's primary or secondary legislation, as guidelines and "soft law" would not prove to be effective nor will it produce the desired intent of EU legislators to urge the member states to make the next step in political development. However, it is not clear what should be taken into account when

harmonizing labor law. This paper did not cover labor law harmonization in general, because there is close to no point of reference to start this process. More research is required to understand why work force tends to immigrate on a deeper level. It must be noted that, this is a very stiff straightforward approach, which must have a concrete aim it endeavors to fulfill. In this case, the aim could be to decrease the amount of immigrants in the labor market outside of the EU and within EU (although the latter might be inconsistent with core values of the EU, such as the freedom of movement of workers), to raise ESC standards of labor as a part of promoting basic rights, to prevent the so-called “brain leaks” of qualified domestic work force and talent or to balance the economies within the EU – as a few examples. Each and every aim would require a tailored approach. The notion of harmonizing labor law in the EU outside of minimum safety regulations, most of which were offered by the ILO anyway, is far-fetched and daunting. This approach could end up being least effective in addition to being redundant and harmful as discussed previously in the EU-wide minimum wage example of theoretical harmonization. The issue is too sophisticated and reflects to a large degree the problems of a society. Harmonizing one or two aspects of labor law would likely prove to be too superficial of a solution to solve or alleviate any of the above-mentioned problems. There needs to be a balance between labor and business, similar to the concept of flexicurity²⁹ in Denmark and the Netherlands, but without prejudice towards the worker.

Finally, the most sophisticated and viable approach would probably be ESC rights enforcement across the EU. As of today, the human society lives in a highly fractured state of governance: some societies focus on “first world problems”, while others still struggle to instill democratic voting systems. The priority of CP and ESC rights, or any other types of rights in between those two types, is different across the world. We do not live in a homogeneous world of political notion. Therefore, ESC rights enforcement must be reserved for developed societies, those which have reached the achievable pinnacle of political science, mostly related to CP rights, so far and are now in a political limbo. These societies are striving to achieve the next level of political development and are seeking a breakthrough in rights practice to make the society more equal. That is, not every society is ready to embrace the ESC rights without having first adopted CP rights in their entirety. Seeing how doing so is a requirement to join the EU, we assume that all of the member states in the EU are developed enough in terms of democratic values observation to make this next step and

²⁹ Anca, I. (2012). The Worlds of Flexicurity: Labour Market Policies in Europe. – *Annals of the University of Oradea: Economic Science*, Vol. 1, No. 1, 133-138.

dwell into the territory beyond the CP rights enforcement. To achieve this, firstly, ESC rights in one form or another have to be enshrined in EU's primary legislation. However, the wording should fully reflect the intent to make ESC rights a part of citizens' everyday life rather than a mere aim to be achieved sometime in the future. For the next step, the experience of advanced member states will be valuable, for the concrete changes in the secondary legislation will be based to a large extent on this experience. Finally, the EU's judicial system must take into account the new agenda when producing rulings, so that the priority of principles is to a degree clear. Needless to point out, the Laval case must never repeat again with such an agenda in place. Individual countries, notably those most developed ones, are gradually making progress towards achieving ESC equality, the need for which is recognized by their citizens and governors. The German courts have already started to shift their more conservative approach to these rights towards recognizing and enforcing them while also cooperating with ECJ to ensure there is a coherent line of reasoning in cases potentially involving ESC matters. This can be seen in recent cases involving age discrimination in labor in Germany, which was eventually recognized as a problem. At a later point in time, cases involving disabilities have also fallen under the radar of German courts. Eventually, cases with "subtle discrimination" grew in number.³⁰ From this example, we can see that progress in the field of labor is being made, however it remains largely on a voluntary basis for states to carry out this process. Without incentive or obligation other member states will remain far behind in civil progress.

³⁰ Sweet, A. S., Stranz, K. (2012). Rights Adjudication and Constitutional Pluralism in Germany and Europe. – *Journal of European Public Policy*, Vol. 19, No. 1, 92-108.

CONCLUSION

The aim of the paper was to discover whether it would be possible to harmonize labor law across the EU and improve worker protection in a number of countries while maintaining economic growth.

Through the theoretical introduction of the EU-wide minimum wage, we can see that there are a number of things which could be considered for harmonization across the EU. The EU could, for example, study templates of labor law of the richer and more successful countries in the EU and decide which areas of this field can be shared with the entire union through secondary legislation. Things like compensation packages for unfair dismissal, compensation for working on the weekend, the extent of applicability of labor law to part-time or flexible workers, job security etc. are areas in which some member states lack progressiveness. Could they be harmonized at least by the means of a directive or two? A definite answer to that would be yes, especially given that some member states already have adequate measures in place. However, this question is being challenged by the condition in the research requiring us to take into account the economic growth. Thus, finding a solution with a balance between better protection of the worker and remaining competitive is not as obvious. Referring once again to the EU-wide minimum wage, it becomes apparent that economic differences across the EU would prevent certain areas from being harmonized, without support from the union, because economic consequences could be harmful. Never the less, should the EU decide to support less fortunate countries for a long enough period in order to negate the negative effects of harmonization on economy, the balance between worker protection and economic growth could well be achieved. At the very least, the less affluent member states should not suffer further as a result of harmonization. Whether the EU would be willing to undertake another development project in order to assist a number of member states in improving their social policies yet again is a potential for another research.

The labor market and labor legislation reflect the general situation, economic and political, in any given country. It is a very comprehensive and convoluted matter in modern society, especially in the context of globalization. It is apparent that in order to make progress in the field of labor rights, many other issues need to be addressed. It is convenient to look at labor issues through the prism of ESC rights, because many aspects of those rights are in one way or another linked with labor and

it can be argued that the more these rights are respected, the better the workers are treated. There are different opinions in regards to the future of ESC rights, some optimistic and some pessimistic, and their future at this point is all but uncertain. With the rapid technological progression, growing human population, mass immigration and neo-liberal economy dominance in the West, corporations will no doubt take advantage of any vulnerabilities of the labor force. With capitalism being the dominant ideology, it is also apparent that businesses need to be allowed to grow. It is highly unlikely that the EU or its stakeholders would approve of changes to such a vast area of governance when economic uncertainty is a danger. Hence, the pan-European wage proposal became a failure.

Even within the EU there is no ideal labor system which would both allow businesses the rapid growth they seek and provide the workers with maximum all-encompassing protection. Sacrifices must be made in one of those sides of the economy spectrum to promote either economic growth or labor standards. Hence, there exist immigration (search for the latter) and outsourcing (search for the former). The differences between EU member states are too significant in terms of both culture and economy for there to be a balance between labor and business. Each member state has its own vision and aim to achieve in the single market and these endeavors can be incompatible as far as economy is concerned. It can be said that a country is largely willing to invest in better protection for workers once they can effectively afford it – in literal sense.

Never the less, the problems of labor protection must not be ignored. Even smaller improvements, like extended paternal leave, can make a difference and they can pave the way for a plethora of changes to come in due time. These changes can start with reinforcing trade unions, initiating mandatory basic labor aspects improvements and shifting the wide-spread notion of nebulousness of ESC rights towards their usefulness.

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